

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION

BASF AGRO B.V., MERIAL LIMITED and
MERIAL SAS

Plaintiffs,

v.

CIPLA LIMITED, *et al.*

Defendants

and

VELCERA, INC. and FIDOPHARM, INC.,

Intervenors.

Case No. 3:07-CV-00125-CDL

RESPONSE TO PLAINTIFFS' MOTION FOR A SCHEDULING CONFERENCE

Intervenors Velcera, Inc. and FidoPharm, Inc. respectfully oppose Plaintiffs' Motion for a Scheduling Conference at 10 am on September 15th. That date is problematic and premature for two reasons. *First*, Intervenors will be filing their Reply Brief with the United States Court of Appeals for the Federal Circuit on September 15th. Accordingly, the proposed conference date would be highly inconvenient for Intervenors' counsel, who will be focusing on the filing without assistance from one colleague who is at trial, and another whose son is having surgery at the end of this week.

Second, a scheduling conference with the Court is premature at this stage of the meet and confer process. Intervenors are working with Plaintiffs to reach agreement on a proposed schedule for damages-related discovery. Velcera and FidoPharm agree that any damages discovery should be focused, but the damages issues in this case will be complex, and fact and expert discovery should be subject to a reasonable schedule that all of the parties will be able to

meet. To that end, Intervenor's are planning to circulate comments on Merial's proposed schedule this morning and confer with Plaintiffs this afternoon regarding the schedule and various other matters, including a jurisdictional question that Intervenor's identified in the course of negotiating the schedule and that may require court resolution.

Accordingly, Intervenor's request that the Court deny Merial's Motion for a Scheduling Conference on September 15th in favor of scheduling a conference at a later date that is agreeable to all parties.

Respectfully submitted this 12th day of September, 2011.

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CERTIFICATE OF SERVICE

I do hereby certify that I am counsel for Intervenor Velcera, Inc. and FidoPharm, Inc. in the above-styled action, and that a true and exact copy of the foregoing document was electronically filed today using the CM/ECF system, which will automatically deliver notice of same to:

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